

CONTRACT # _____

Between

The North Carolina Department of Health and Human Services

And

FEDERAL TAX ID # _____

1.0 Parties to the Contract

This Contract is entered into by and between the North Carolina Department of Health and Human Services, an agency of the State of North Carolina, hereinafter referred to as the "Department" or "DHHS" and the _____, a North Carolina local governmental entity, hereinafter referred to as the "Contractor", "Local Management Entity" or "LME", for the activities specified herein.

2.0 Contract Documents

This Contract shall consist of the following documents, incorporated herein by reference:

- (1) This Contract
- (2) Attachment I – Scope of Work
- (3) Attachment II – Performance Measures
- (4) Attachment III – Department Guidelines
- (5) Attachment IV – Financing
- (6) Attachment V – Definitions and List of Acronyms

In the event of a conflict in terms between the Contract Documents, the Contract Document and Federal or State Regulation with the highest precedence shall prevail. Portions of this Contract relating to Medicaid financing and Medicaid services may require approval by the federal Centers for Medicare and Medicaid (CMS). Nothing in this Contract or the referenced Attachments shall be construed to create an entitlement to services purchased with State or State-allocated federal funds.

3.0 Assignment

No assignment of the Contractor's obligations or the Contractor's right to receive payment hereunder shall be permitted.

4.0 Effective Period

This Contract is effective the day following the last signature to the contract but no earlier than July 1, 2004 and terminates on June 30, 2005 with the option to extend, if mutually agreed upon, through a written amendment as provided in Section 28.

5.0 Subcontracting

The Contractor may subcontract any of the work contemplated under this Contract, with the exception of the utilization management function outlined in Attachment I, without prior written approval from the Department. The Contractor shall be responsible for the performance of any subcontractor.

6.0 Independent Contractor

The Contractor is and shall be deemed to be an independent contractor in the performance of this Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this Agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Department.

7.0 Indemnity

The Contractor agrees to indemnify and hold harmless the Department, the State of North Carolina, and any of their officers, agents and employees, from any claims of third parties arising out of, or any act or omission of the Contractor in connection with the performance of this Contract.

8.0 Beneficiary

Except as herein specifically provided otherwise, this Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement, shall be strictly reserved to the Department and the named Contractor. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Department and Contractor that any such person or entity, other than the Department or the Contractor, receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.

9.0 Administrators for the Contract

The persons named below shall be administrators for the respective parties and shall be the persons to whom notices provided for in this Contract shall be given and to whom matters relating to administration or interpretation of this Contract shall be addressed. Either party may change its administrator or address or telephone number by written notice to the other party.

For the Department:

_____ (Enter name and title)
 _____ (Enter Department name)
 _____ (Enter Location Address)
 _____ (Enter Mail Service Center Address)
 _____ (Enter City, State, and Zip Code-MS)
 Phone (____) ____-____ Fax (____) ____-____ (Enter telephone and fax number)

For the Contractor:

_____ (Enter name and title)
 _____ (Enter Agency's name)
 _____ (Enter Street Address)
 _____ (Enter P.O. Address)
 _____ (Enter City, State, and Zip Code)
 Phone (____) ____-____ Fax (____) ____-____ (Enter telephone and fax number)

10.0 Entire Agreement

This Contract and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements.

11.0 Availability of Funds

The parties to this Contract agree and understand that the payment of the sums specified in this Contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Department.

12.0 Responsibilities of the Department

The responsibilities of the Department are as follows:

- (1) Review and, if appropriate, approve the Contractor's Local Business Plan (LBP), prepared in accordance with DHHS requirements and G. S. 122C-112.1. Upon approval, the DHHS will certify the Contractor as the Local Management Entity (LME) for public mental health, developmental disabilities and substance abuse services in the Contractor's geographic catchment area.
- (2) Reimburse the Contractor for the costs of services and activities described in Attachment I in accordance with the approved budget in Attachment IV;
- (3) Monitor the Contractor for compliance with the terms of this Contract;
- (4) Specifying all reports and other deliverables required from the Contractor;
- (5) Notify the Contractor of changes in covered services or conditions of providing covered services;
- (6) Administer a Medicaid fair hearing process consistent with federal requirements;
- (7) Administer a review process for non-Medicaid eligible consumers limited to allegations of violations of human rights ;

- (8) Collaborate with the Contractor on quality improvement activities, fraud and abuse issues, and other activities that impact the services provided to recipients.

13.0 Responsibilities of the Contractor

The responsibilities of the Contractor are as follows:

- (1) Develop and implement a Local Business Plan (LBP) to serve as a Local Management Entity (LME) for public mental health, developmental disabilities and substance abuse services in the Contractor's geographic territory;
- (2) Utilize State and federal funds allocated for services under this contract for mental health, developmental disabilities and substance abuse services for the most severely disabled and economically disadvantaged individuals in the catchment area in accordance with DHHS Target Population categories;
- (3) Perform the services described in Attachment I in accordance with the terms of this Contract and in accordance with the contract financing in Attachment IV;
- (4) Abiding by the Guidelines in Attachment III;
- (5) Achieving substantial Compliance with Performance Measures in Attachment II
- (5) Submit to the Department all plans, reports, documents or other products that the Department may require, in the form specified by the Department;
- (6) All other responsibilities contained in this Contract

14.0 Payment for Services

Upon execution of this Contract, the Contractor shall submit billings for funding for Contractor functions and services to consumers in a manner prescribed by the Department. Billings for services to be paid from funds allocated by the DHHS shall be submitted in accordance with the timely filing provisions of the Integrated Payment Reporting System (IPRS) or the non-unit cost reimbursement provisions promulgated by the Office of the DHHS Controller. Billings for services to be paid by Medicaid shall be filed in accordance with Medicaid regulations and guidance from the Division of Medical Assistance.

All payments are contingent upon fund availability.

15.0 Notice of Certain Reporting and Audit Requirements

The Contractor shall use or expend the funds available under this contract only for the purposes for which they were appropriated by the General Assembly or collected by the State. State funds include federal funds that flow through the State. The Contractor is subject to the requirements of OMB Circular A-133 and the N.C. Single Audit Implementation Act of 1987, as amended in 1996. The Contractor shall file audit reports with the Local Government Commission within 30 days after issuance by the auditor but no later than four months after the Contractor's fiscal year.

The State Auditor has audit oversight of every Contractor who receives, uses or expends State funds. The Contractor shall, upon request, furnish to the State Auditor

for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of state funds. The Contractor shall furnish any additional financial or budgetary information requested by the State Auditor.

If the Contractor disburses or transfers any State funds to other organizations, except for the purchase of goods or services, the Contractor shall require such organizations to file with it similar reports and statements as required by G.S. 143-6.1 and the Office of State Auditor's Audit Advisory #2.

16.0 Sales/Use Tax

The Contractor shall request the sales/use tax refund from the North Carolina Department of Revenue as permitted under G.S. 105-164.14 and shall ensure all subcontractors request the sales/use tax refund from the North Carolina Department of Revenue as permitted under G.S. 105-164.14.

17.0 Access to Persons and Records

The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. Additionally, as the State funding authority, the Department of Health and Human Services shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

18.0 Record Retention

The Department of Health and Human Services' basic records retention policy requires all records to be retained for a minimum of three years following completion or termination of the contract. If the contract is subject to Federal policy and regulations, record retention will normally be longer than three years since records shall be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has been started before expiration of the three year retention period described above, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three year period described above, whichever is later. Therefore, records shall not be destroyed, purged or disposed of without the express written consent of the Department.

19.0 Liabilities and Legal Obligations

Each party hereto agrees to be responsible for its own liabilities and that of its officers, employees, agents or representatives arising out of this Contract including fiscal responsibility for deviation from this Contract.

20.0 Confidentiality

Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this Agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Department. The Contractor acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information the contractor will safeguard and not further disclose the information except as otherwise provided in this Contract.

21.0 Equal Employment Opportunity

The Contractor shall comply with all federal and State laws relating to equal employment opportunity.

22.0 Compliance with Laws

The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

23.0 Amendment

This Contract may not be amended orally or by performance. Additional conditions outlined in allocation letters from the DHHS prior to signing of this contract shall serve as amendments to the contract upon acceptance of the allocation letter by the Contractor. All other amendments shall be made in written form and executed by duly authorized representatives of the Department and the Contractor. In the event that certain provisions of this Contract that require approval by the federal Centers for Medicare and Medicaid are not approved, the Contractor and the Department agree to amend the Contract accordingly.

24.0 Choice of Law

The Contractor, by signing this Contract, agrees and submits, solely for matters concerning this Contract, that the only venue for any legal proceedings shall be Wake County, North Carolina. The place of this Contract, transactions, agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

25.0 Federal Certifications

The Contractor agrees to execute the following federal certifications that are incorporated in Attachment III to this Agreement:

- (1) Certification Regarding Lobbying.
- (2) Certification Regarding Debarment.
- (3) Certification Regarding Drug-Free Workplace Requirements.
- (4) Certification Regarding Environmental Tobacco Smoke.

26.0 Severability

In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall be enforced only to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect.

27.0 Health Insurance Portability and Accountability Act (HIPAA)

The Contractor agrees that, if the Department determines that some or all of the activities within the scope of this Contract are subject to the Health Insurance Portability and Accountability Act of 1996, P.L. 104-91, as amended ("HIPAA"), or its implementing regulations, it will comply with the HIPAA requirements and will execute such agreements and practices as the Department may require to ensure compliance.

28.0 Originals

In witness whereof, the Contractor and Department have executed this Agreement in duplicate originals, one of which is retained by each of the parties.

29.0 Signature Warranty

Each individual signing below warrants that he or she is duly authorized by the party to sign this Contract and to bind the party to the terms and conditions of this Contract.

(Fill in Contractor's Name)

Witness

BY: _____

TITLE: _____

DATE: _____

North Carolina Department of Health and Human Services

BY: _____
Secretary or Designee

DATE: _____

North Carolina Office of the Attorney General

Approved as to form:

Signature

Title

Date